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Annual report of the Expert Mechanism on the Rights of Indigenous Peoples

Chair-Rapporteur: Albert Kwokwo Barume

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I. Introduction

1. In its resolution 6/36, the Human Rights Council established the Expert Mechanism on the Rights of Indigenous Peoples as a subsidiary body to assist the Council in the implementation of its mandate by providing it with thematic expertise on the rights of indigenous peoples, as requested by the Council. In the resolution, the Council established that the thematic expertise would focus mainly on studies and research-based advice, and that the Expert Mechanism might suggest proposals to the Council for its consideration and approval.

2. In September 2016, the Human Rights Council adopted resolution 33/25 amending the Expert Mechanism's mandate: the Expert Mechanism was mandated to provide the Human Rights Council with expertise and advice on the rights of indigenous peoples as set out in the United Nations Declaration on the Rights of Indigenous Peoples, and to assist Member States, upon request, in achieving the ends of the Declaration through the promotion, protection and fulfilment of the rights of indigenous peoples. The specificities of the new mandate are set out in the resolution. The present report is the first annual report of the Expert Mechanism adopted in the light of this expanded mandate.

3. The Expert Mechanism held its tenth session in Geneva from 10 to 14 July 2017. During the session, it discussed the draft methods of work for its reports to the Human Rights Council and for country engagement (see annex I). The summary of the debate in sections V to XII below is not intended to be a verbatim record, but rather an overview of the main points raised by expert members and other participants. The individual contributions of all participants can be viewed on the webcast of the session.[1]

II. Intersessional activities

4. Since its last annual session in July 2016, the Expert Mechanism has undertaken several official intersessional activities. In September 2016, it held an interactive dialogue with the Human Rights Council at the latter's thirty-third session, as part of the process of submission of the Expert Mechanism's study on the right to health and indigenous peoples (A/HRC/33/57). On the same occasion, Albert Kwokwo Barume, Chair of the Expert Mechanism, served as moderator of the half-day discussion in the Human Rights Council on violence against indigenous women. In January 2017, the Expert Mechanism participated in the expert group meeting on the role of the United Nations Permanent Forum on Indigenous Issues and other indigenous-specific mechanisms in the implementation of the Declaration.

5. From 2 to 4 March 2017, the members of the Expert Mechanism took part in a meeting hosted by the Government of Canada to discuss their new mandate under Council resolution 33/25, including the development of new methods of work. Members also held a half-day meeting with all members of the Permanent Forum, which was holding an intersessional meeting in Ottawa at the same time, in order to discuss cooperation and possible joint initiatives under the new mandate.

6. On 6 and 7 March 2017, the members of the Expert Mechanism attended the United Nations Expert Seminar on Good Practices and Challenges for Indigenous Peoples' Entrepreneurship in Boulder, Colorado, United States of America. The seminar was jointly organized by the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the University of Colorado Law School. The objective of the seminar was to support the study on good practices and challenges in business and access to financial services by indigenous peoples. The seminar brought together approximately 30 participants from several regions, including five members of the Expert Mechanism, indigenous human rights advocates, academics and practitioners. The topics addressed included State and regional practices on indigenous peoples' businesses, the role of

[1] Available from http://webtv.un.org.

indigenous-owned businesses in promoting respect for human rights, indigenous knowledge-based businesses, and strategies to promote non-discriminatory access to financial services by indigenous peoples.

7. From 17 to 21 March 2017, the Expert Mechanism held an intersessional meeting in the Khanty-Mansiysk Autonomous Okrug — Yugra, hosted by the Government of the Russian Federation. The purpose of this meeting was to draft specific methods of work for the various activities enshrined in the new mandate of the Expert Mechanism. The meeting enabled the Expert Mechanism to develop guidelines for its engagement in country situations, including responding to requests by indigenous peoples and States for technical advice and dialogue facilitation.

8. The Expert Mechanism was also represented at the sixteenth session (April-May 2017) of the Permanent Forum and took part in the high-level commemorations of the adoption of the United Nations Declaration on the Rights of Indigenous Peoples, conducted by the General Assembly on 25 April 2017. In addition, several members of the Expert Mechanism engaged with United Nations agencies, regional human rights mechanisms, Member States and civil society organizations at the country level, including through activities related to capacity-building.

III. Studies, reports and proposals

A. Adoption of studies and reports

9. During its session, the Expert Mechanism adopted the following:

(a) A study[2] and advice on good practices and challenges in business and in access to financial services by indigenous peoples, mandated by the Human Rights Council in its resolution 33/13, paragraph 4;

(b) A report on 10 years of the implementation of the Declaration,[3] describing good practices, lessons learned and methods of work relating to its new mandate, in accordance with Human Rights Council resolution 33/25, paragraph 2 (b).

10. The Expert Mechanism agreed that the Chair-Rapporteur, in consultation with the other members of the Expert Mechanism, might make revisions to the above-mentioned documents in the light of discussions carried out at its tenth session, and agreed to submit them to the Human Rights Council at its thirty-sixth session.

B. Proposals

Proposal 1: Participation of indigenous peoples in the Human Rights Council

11. The Expert Mechanism proposes that the Human Rights Council make further efforts to facilitate the participation in its work of indigenous peoples' representatives and institutions, as opposed to non-governmental organizations, in accordance with the Declaration. This would include all meetings relevant to the rights of indigenous peoples, in particular the dialogue between the Expert Mechanism and the Special Rapporteur on the rights of indigenous peoples and the annual half-day discussion on the rights of indigenous peoples. The Expert Mechanism makes this proposal without prejudice to the ongoing consultative process in the General Assembly aimed at enhancing the participation of indigenous peoples in United Nations meetings, to enable the participation of indigenous peoples' representatives and institutions in meetings of relevant United Nations bodies on issues affecting them.

[2] A/HRC/36/53.
[3] A/HRC/36/56.

Proposal 2: Theme of the Human Rights Council's annual half-day discussion on indigenous peoples

12. In the light of the information set out in section II of document A/HRC/36/56, the Expert Mechanism proposes to the Council that it hold a half-day discussion on the protection of indigenous human rights defenders at its thirty-ninth session.

Proposal 3: Increased engagement of Member States with the Expert Mechanism

13. The Expert Mechanism proposes that the Human Rights Council urge States to engage more actively with the Expert Mechanism's activities, in particular during its sessions, with a view to taking part in a dialogue, which is a core element of the Expert Mechanism's amended mandate.

Proposal 4: Protection of human rights defenders

14. The Expert Mechanism renews its earlier proposal to the Council that the latter call upon States to ensure that indigenous human rights defenders, in particular indigenous women and indigenous communities, are guaranteed a safe working environment and security, in compliance with the Declaration and other international standards. In the light of the information set out in section II of report A/HRC/36/56, it proposes that the Council request States to ensure that all human rights violations against indigenous communities and human rights defenders, including indigenous women, are investigated and brought to justice.

Proposal 5: Sustainable Development Goals

15. The Expert Mechanism proposes that the Human Rights Council urge States to support indigenous community-based monitoring towards the implementation of the Sustainable Development Goals and the collection of disaggregated data for the purposes of measuring progress towards these Goals.

Proposal 6: Reporting to the General Assembly

16. In the light of its amended mandate, which expands its scope to include technical advice to States, the Expert Mechanism reiterates its previous proposal to the Human Rights Council that the latter request the Expert Mechanism to report to the General Assembly on a biennial basis, in addition to its annual reporting to the Council.

Proposal 7: National action plans to achieve the ends of the Declaration

17. The Expert Mechanism proposes to the Council that it remind States of the commitment undertaken in the outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples to cooperate with indigenous peoples to develop and implement national action plans, strategies or other measures to achieve the ends of the Declaration. In this regard, it proposes that these action plans be used as a tool to implement the recommendations of international human rights mechanisms, including the universal periodic review, treaty bodies and special procedures, and that States consider seeking the collaboration and support of their national human rights institutions and the Expert Mechanism in the elaboration of these action plans.

Proposal 8: Contributions to the United Nations Voluntary Fund for Indigenous Peoples

18. The Expert Mechanism proposes that the Council urge States to contribute to the United Nations Voluntary Fund for Indigenous Peoples.

Proposal 9: Collaboration with the universal periodic review process

19. The Expert Mechanism reiterates its proposal that the Council and Member States continue to draw increasingly on the United Nations Declaration on the Rights of Indigenous Peoples in the universal periodic review process. It also reiterates its proposal

that, in future universal periodic review cycles, the Declaration be explicitly included in the list of standards on which the universal periodic review process is based.

Proposal 10: International Year of Indigenous Languages

20. The Expert Mechanism proposes that the Human Rights Council participate in the action plan led by the United Nations Educational, Scientific and Cultural Organization (UNESCO) to ensure a human rights-based approach to the programmes and events which will be organized for the International Year of Indigenous Languages in 2019.

IV. Organization of the session

A. Attendance

21. The Expert Mechanism held its tenth session in Geneva from 10 to 14 July 2017. Six members, Mr. Barume (Democratic Republic of the Congo, Chair-Rapporteur), Megan Davis (Australia), Edtami Mansayagan (Philippines), Alexey Tsykarev (Russian Federation), Laila Vars (Norway) and Erika M. Yamada (Brazil), attended the session in person.[4]

22. States, parliaments, indigenous peoples, United Nations programmes, bodies and specialized agencies, national and regional human rights institutions, non-governmental organizations and academic institutions participated in the session as observers (see annex II for a complete listing).

23. Also participating in the session were: Claire Charters, one of the advisers to the President of the General Assembly on the question of enhancing indigenous peoples' participation at the United Nations (via video link); Anne Nuorgam, member of the Board of Trustees of the United Nations Voluntary Fund for Indigenous Peoples; Yuval Shany, Vice-Chair of the Human Rights Committee; Victoria Tauli-Corpuz, Special Rapporteur on the rights of indigenous peoples; and Mariam Wallet Aboubakrine, Chair of the Permanent Forum.

B. Opening and adoption of the agenda

24. Mr. Barume, the Chair-Rapporteur of the Expert Mechanism, opened the tenth session of the Expert Mechanism and welcomed the United Nations High Commissioner for Human Rights and the President of the Human Rights Council.

25. The High Commissioner highlighted the following issues: the gap that continues to exist between international commitments relating to indigenous peoples and the reality on the ground; the nature of development projects, which often subsumes indigenous peoples' rights to their lands and territories, and the worrying increase in murder and harassment of indigenous peoples, often related to defence of their lands; the many good national, regional and international practices initiated by States and indigenous peoples since the adoption of the Declaration in 2007; the opportunities for change and implementation of the Declaration that should be taken up, including support for the new mandate of the Expert Mechanism, follow-up to the World Conference on Indigenous Peoples and contributions to the Voluntary Fund.

26. The President of the Human Rights Council highlighted the following points: the importance the Council gives to the work of the Expert Mechanism and confirmation that it will continue to support the latter's work and its new mandate; the necessity of the participation and partnership with indigenous peoples in United Nations processes; challenges to the implementation of indigenous rights at the national level; and the information that the Council will hold a half-day panel discussion at its thirty-sixth session on the commemoration of the tenth anniversary of the adoption of the Declaration.

[4] Kristen Carpenter (United States of America) participated remotely.

C. Election of officers

27. Mr. Barume invited members to nominate a Chair-Rapporteur and two Vice-Chair-Rapporteurs for 2017-2018. Mr. Tsykarev nominated Mr. Barume for a second term as Chair-Rapporteur and Ms. Vars and Ms. Yamada as Vice-Chair-Rapporteurs. All three were appointed by acclamation.

V. New mandate of the Expert Mechanism: activities and methods of work

28. On opening the agenda item, Mr. Barume stated that, under the new mandate of the Expert Mechanism, the implementation of the Declaration should be "home-grown": a call subsequently echoed by States, indigenous peoples and other participants. The Chair presented the proposed methods of work, designed to enable the Expert Mechanism to facilitate dialogue between indigenous peoples and States at the national level (see annex I).

29. Numerous interventions were made on the need to ensure mutual coordination between the Expert Mechanism, the Special Rapporteur on the rights of indigenous peoples and the Permanent Forum in order to ensure complementarity between the three mechanisms. Thoughtful coordination and the sharing of information was required to ensure their efficient and effective functioning. Participants called on the Expert Mechanism to strengthen its engagement with the human rights treaty bodies and universal periodic review process at all stages, from the review itself to the implementation of recommendations. It was also suggested that the Expert Mechanism should strengthen its engagement with other United Nations funds, agencies and programmes, in particular with regard to the 2030 Agenda for Sustainable Development and the implementation of the Sustainable Development Goals.

30. The participation of indigenous peoples under the new mandate was a recurring theme. The members of the Expert Mechanism noted that it was vital that consultations with indigenous peoples should continue throughout the implementation of the new mandate and that indigenous peoples should actively engage with the new mandate, in particular peoples from regions and countries where previous participation had been limited. It was also noted that, although the Expert Mechanism now had the authority to choose the themes for its own studies, it would continue to consult States and indigenous peoples.

31. Regarding the Expert Mechanism's engagement in country situations, participants noted that that aspect of the new mandate would be influential in developing a coherent interpretation of the Declaration. Technical advice supplied to States on the development of domestic legislation and policies should, pursuant to the new mandate, also consider recommendations from relevant human rights mechanisms, including the universal periodic review process, treaty bodies and special procedures. When carrying out country engagement activities, the Expert Mechanism should encourage States to develop and implement national action plans to achieve the ends of the Declaration and provide States with technical advice regarding the content of national action plans and ways of incorporating those plans into the legislative, policy and administrative structures of the State concerned. Members pointed out that cooperation and openness on the part of States was required to maximize the effect of the new mandate.

VI. Interactive dialogue with national human rights institutions, regional human rights institutions and similar mechanisms

32. The session commenced with a panel discussion by Maria Luisa Aguilar (Mexico, national human rights institution), Mohna Ansari (Nepal, national human rights institution), Karen Johansen (New Zealand, national human rights institution), Soyata Maiga (African Commission on Human and Peoples' Rights), Samia Slimane (OHCHR) and Laila Vars (Expert Mechanism member), that focused on four key themes: contributions that national

human rights institutions and regional mechanisms have made in the promotion of indigenous persons' rights and the implementation of the Declaration; the main challenges faced by national human rights institutions in this regard; how the situation of indigenous peoples has evolved in the last 10 years thanks to the Declaration; and cooperation between the Expert Mechanism, national human rights institutions and regional mechanisms under the new mandate. It was also noted by members of the Expert Mechanism that the agenda item would become a standing agenda item for future sessions of the Expert Mechanism.

33. The panellists noted that their respective institutions were mandated to make recommendations, provide advice, raise awareness and engage in capacity-building to promote and protect the rights of indigenous peoples and implement the Declaration. The challenges identified in relation to their work on indigenous peoples' rights were overwhelmingly concerned with the reluctance of States to commit themselves to implementing the Declaration, the absence of formal recognition of indigenous peoples' rights in constitutions and laws and the failure of States to ensure the participation of indigenous peoples and the principle of free, prior and informed consent. States also continued to view the Declaration as non-binding, thereby downplaying its normative force. Those challenges had led to ongoing discrimination against indigenous peoples, a failure to protect indigenous peoples' rights, in particular cultural rights and rights to lands, territories and resources, and an inability to enforce or monitor compliance with decisions that recognized their rights under the Declaration.

34. Panel members identified certain improvements in their regions since the adoption of the Declaration, namely the increasing number of references to indigenous peoples' rights in high-level governmental discussions, the influence of the Declaration in policymaking, the creation of government bodies exclusively dedicated to indigenous issues and the development of jurisprudence pertaining to the rights of indigenous persons. In discussing the enhanced cooperation between the Expert Mechanism, national human rights institutions and regional mechanisms under the new mandate, the panellists noted the utility of training for indigenous peoples, public officials and other stakeholders on the work done by the Expert Mechanism, as well as capacity-building related to the new mandate and the Expert Mechanism's working methods. Importantly, national human rights institutions should also continue to report on issues affecting indigenous peoples, in particular to ensure that the violations of their rights were included in the reviews of international human rights bodies, such as the treaty bodies. OHCHR drew the attention of national human rights institutions to the publication *The United Nations Declaration on the Rights of Indigenous Peoples: a Manual for National Human Rights Institutions*, which might prove a useful tool to facilitate enhanced cooperation under the new mandate.

35. In response to a question about ways in which national human rights institutions and regional mechanisms informed indigenous communities about their rights and about successful decisions upholding their rights, panellists noted that either the relevant authorities or the rights holders themselves were directly notified of the decision. Some national human rights institutions and regional mechanisms had also published reports and implemented specialized programmes in a variety of formats and languages, which were designed to raise awareness amongst indigenous peoples about their rights. Many national human rights institutions and regional mechanisms also collected evidence of violations of indigenous peoples' rights in the communities or regions concerned. Participants also raised the need for greater collaboration between the Expert Mechanism, the Permanent Forum, national human rights institutions and regional mechanisms. It was suggested that greater collaboration could be achieved by institutionalizing collaboration and ensuring that the exchange of information was systematic and reciprocal.

VII. Coordination meeting between the Expert Mechanism, the United Nations Permanent Forum on Indigenous Issues and the Special Rapporteur on the rights of indigenous peoples

36. The members of the Expert Mechanism held a private meeting with the Chair of the Permanent Forum, the Special Rapporteur on the rights of indigenous peoples and a

representative of the Board of Trustees of the Voluntary Fund. Participants considered the following issues: updates on planned activities for the tenth anniversary of the adoption of the Declaration; the selection and coordination of thematic studies; the coordination of country engagement; and the consultation process to enable the participation of indigenous peoples' representatives and institutions in meetings of relevant United Nations bodies on issues affecting them. The three mechanisms decided, inter alia, to draft a joint statement to mark the tenth anniversary of the Declaration.

VIII. Indigenous peoples' participation in the United Nations system

37. Ms. Charters, in her capacity as an independent adviser to the President of the General Assembly, provided a detailed update on progress in relation to General Assembly resolution 70/232, in which the Assembly had requested its President to conduct consultations on the possible measures necessary to enable the participation of indigenous peoples' representatives and institutions in meetings of relevant United Nations bodies on issues affecting them. Consultations on the various elements of the Assembly resolution had taken place from late 2016 until May 2017. The consultations had reached an impasse and States had shared a draft resolution deferring any action on the matter. The principal issues of contention were: the venues for participation by indigenous peoples' representatives and institutions; the application process; the criteria to determine whether the organizations were genuinely representative of indigenous peoples; and State recognition as a mandatory criterion for participation. The principal concern of the indigenous community was that those issues had the potential to undermine existing standards on the rights of indigenous peoples in international human rights law, including the Declaration.

38. Several States, representatives of indigenous peoples and other participants echoed those concerns, noting that it was critical that the negotiations should not undermine existing standards on the rights of indigenous peoples. Notwithstanding the current lack of consensus, participants expressed the view that negotiations should continue and that States should continue to work on the process, provided that the negotiations were consistent with the standards set out in the Declaration. That could be achieved, for example, through the adoption of a procedural resolution that committed States to the process and provided guidance for the way forward. Participants also suggested that the Expert Mechanism voice its support for the process and provide advice to the Human Rights Council on steps the latter could take to support it. In the light of the difficulties encountered during the process, participants emphasized the added importance of the Voluntary Fund and the OHCHR Indigenous Fellowship Programme.

IX. Ten years of implementation of the Declaration: good practices and lessons learned

39. Statements from the Special Rapporteur on the rights of indigenous peoples, members of the Human Rights Committee and the Committee on the Elimination of Discrimination against Women, indigenous peoples, Member States and other participants demonstrated that, since its adoption by the General Assembly on 13 September 2007, there have been a number of positive developments in the implementation of the Declaration. Firstly, it has proven to be an invaluable tool in galvanizing indigenous peoples to campaign for their rights at the national level. States have demonstrated their commitment to implementing the Declaration through a number of measures, including constitutional amendments, national action plans and specific policies such as the revitalization of indigenous languages. Secondly, and of particular significance, is the Declaration's application as a source of law in regional human rights mechanisms, for example by the Inter-American Court of Human Rights in *Kaliña and Lokono Peoples v. Suriname* and by the African Court of Human and Peoples' Rights in *African Commission of Human and Peoples' Rights v. The Republic of Kenya* (the Ogiek case). At the international level, the Declaration has also increased the attention paid by treaty bodies to the rights of indigenous

peoples as an instrument based on existing human rights obligations contained within the core international human rights treaties. For example, the Human Rights Committee and the Committee on the Elimination of Discrimination against Women address the rights of indigenous peoples and the Declaration in their concluding observations, communications and general recommendations and comments. During the discussion, the Committee on the Elimination of Discrimination against Women also indicated that it was considering developing a general recommendation on the rights of indigenous women. It should be noted that the Expert Mechanism had the opportunity to meet informally with the latter Committee during the tenth session to discuss subjects of mutual interest. The Expert Mechanism is grateful to the Geneva Academy of International Humanitarian Law and Human Rights for having sponsored this event under the Geneva treaty body platform.

40. Notwithstanding the aforementioned positive developments, participants agreed that an implementation gap existed between the support shown by States for the Declaration at the international level and concrete action to promote and protect indigenous peoples' rights at the national level. One of the key barriers to implementation was the failure of some States to recognize indigenous peoples, denying them the rights contained in the Declaration. Other States demonstrated a tendency to adopt legislation that recognized the rights of indigenous peoples while failing to amend other laws that violated their rights, including laws on extractive industries, forestry and agriculture. Experts and observers also voiced concern at the escalating number of attacks against indigenous human rights defenders, often in the context of development projects carried out without the free, prior and informed consent of the indigenous peoples concerned.

41. Securing implementation of the Declaration was the challenge of the next decade. Participants noted that the participation of indigenous peoples was critical if full implementation was to be achieved. In that regard, indigenous peoples needed to be supported by means of capacity-building programmes that improved their awareness of the rights contained in the Declaration, in particular rights to indigenous lands and territories, and the principle of free, prior and informed consent. The Expert Mechanism, the Permanent Forum and the Special Rapporteur on the rights of indigenous peoples also needed to ensure that their areas of thematic focus continued to extend beyond human rights and development alone to include climate change and conservation, for example the United Nations Framework Convention on Climate Change and climate change mitigation and adaptation.

42. Regarding the treaty bodies, the representatives of the Human Rights Committee and the Committee on the Elimination of Discrimination against Women indicated that those bodies would welcome a briefing by the Expert Mechanism, the Permanent Forum or the Special Rapporteur on the rights of indigenous peoples and would welcome more information on country-specific situations regarding indigenous peoples' rights. The representative of the Human Rights Committee also indicated that the latter would be interested in exploring possible future coordination with the Expert Mechanism on ways to support the implementation of its recommendations. As noted in the outcome document of the World Conference on Indigenous Peoples, national action plans to achieve the ends of the Declaration were an invaluable tool for States to give effect to their international human rights obligations regarding the rights of indigenous peoples, and therefore to achieve the ends of the Declaration.

X. Intersessional activities and follow-up to thematic studies and advice on the rights to cultural heritage and health

43. As Chair for the item, Mr. Tsykarev provided an overview of the three intersessional activities that had taken place in March 2017 (see section II above). Regarding the follow-up to thematic studies and advice, Mr. Tsykarev noted that UNESCO had used the study on cultural heritage during the development of its new policy on engaging with indigenous peoples. He encouraged UNESCO to include a section in the policy on the repatriation of indigenous peoples' cultural heritage and to keep further debate on the policy open and participatory for all stakeholders.

44. Participants highlighted a number of positive initiatives currently being undertaken in relation to the right to health. They included the creation of health units for indigenous peoples based on intercultural models of health, university support for the use of traditional practices and medicines in indigenous communities and awareness-raising about indigenous health care among medical students. The use by indigenous youth of the Expert Mechanism's study on the right to health to develop a national plan on health for indigenous peoples with a focus on youth in Latin America and the Caribbean, in collaboration with the Pan American Health Organization and the Fund for the Development of Indigenous Peoples in Latin America and the Caribbean, was also emphasized. Participants highlighted a number of challenges that continued to affect indigenous peoples, including: high rates of alcoholism in indigenous communities; high rates of suicide, particularly among indigenous youth; violence against indigenous human rights defenders; the need to travel long distances to access health-care services; the use of harmful chemicals in indigenous territories by agribusinesses; and the difficulty of providing health-care services for indigenous peoples whose territories were divided by State borders. Participants also reminded States of the need to be aware of the significant negative health effects of intergenerational trauma caused by the removal of indigenous children from their families and communities and the sexual, physical and psychological abuse that often took place in residential schools and other facilities.

45. Regarding the study on the right to cultural heritage, participants noted that items of indigenous peoples' cultural heritage continued to be removed from indigenous territories or destroyed by infrastructure projects, such as the construction of roads. As with the right to health, State borders often created difficulties in the search for common solutions for the preservation of the cultural heritage of indigenous peoples. Participants echoed the comments of the Chair in calling for UNESCO to include a section on repatriation of indigenous cultural heritage in its new policy on indigenous peoples. Participants gave a number of positive updates, highlighting a number of programmes that facilitated the protection of cultural heritage, including consultation frameworks and indigenous ranger programmes that carried out land and sea management activities. In closing, Mr. Tsykarev welcomed the initiatives of the two Finnish academic institutions, namely the University of Helsinki and the University of Lapland, in organizing expert seminars as a follow-up to the Expert Mechanism's study on cultural heritage in 2017 and 2018, respectively. The Expert Mechanism also had the opportunity to meet informally with UNESCO representatives during the session to discuss the follow-up to the recommendation of the Permanent Forum on Indigenous Issues on the repatriation of cultural objects of indigenous peoples.

46. In a side event on the issue of the International Year of Indigenous Languages (see section XI below), co-organized by UNESCO and the Expert Mechanism, participants considered the proposed elements of an action plan for the Year, to be prepared by UNESCO and presented at the seventeenth session of the Permanent Forum on Indigenous Issues in 2018.

XI. Side events during the tenth session

47. Twenty-four side events were held during the session,[5] on the following diverse themes: effective and meaningful participation in the Expert Mechanism; monitoring, reporting and advocacy for human rights and the prevention of genocide; defending the rights and identity of the peoples of Crimea; Mapuche ancestral medicine; participation of indigenous peoples in the processes of the World Intellectual Property Organization; the impact of extractive industries in the Americas and Africa; the European Commission and a rights-based approach for indigenous peoples; 2019 — Year of Indigenous Languages; a new United Nations mechanism for international repatriation of indigenous peoples' cultural heritage, ceremonial objects and human remains; securing indigenous peoples' land rights through strategic litigation; indigenous participation process in Chile; employment and entrepreneurship among indigenous communities; progress in the implementation of

[5] See http://www.ohchr.org/Documents/Issues/IPeoples/EMRIP/Session10/SideEventsTimetable.pdf.

the Declaration for the Amazigh people; the expanded mandate of the Expert Mechanism: 20 years of the OHCHR Indigenous Fellowship Programme; a health plan for indigenous youth in Latin America and the Caribbean; the Training Programme to Enhance the Conflict Prevention and Peacemaking Capacities of Indigenous Peoples' Representatives of the United Nations Institute for Training and Research; the role of businesses and access to financial services for indigenous peoples in Asia; implementation of the Declaration on the Rights of Indigenous Peoples; indigenous medicines; rights of indigenous peoples in the context of biodiversity conservation; advancing economic empowerment for indigenous peoples; and the situation of the Mapuche people in Argentina. For more information on the content of these events, please follow the links of the individual organizations.

XII. Future work of the Expert Mechanism, including the focus of the next annual study

48. The Expert Mechanism decided that its next annual study on the status of the rights of indigenous peoples worldwide in the achievement of the ends of the Declaration, mandated by the Council in its resolution 33/25, paragraph 2 (a), will focus on the theme of free, prior and informed consent.

49. The Expert Mechanism also decided to prepare a report for the Human Rights Council on good practices and lessons learned regarding the efforts to achieve the ends of the Declaration, as authorized under Council resolution 33/25, paragraph 2 (b).

Annex I

Methods of work for submission of reports to the Human Rights Council and country engagement

I. Introduction

1. The Expert Mechanism on the Rights of Indigenous Peoples was established by the Human Rights Council, the main United Nations human rights body, in its resolution 6/36 of 2007, as a subsidiary body of the Council.

2. In the outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples (Assembly resolution 69/2), the Assembly invited the Human Rights Council, taking into account the views of indigenous peoples, to review the mandates of its existing mechanisms, in particular the Expert Mechanism on the Rights of Indigenous Peoples, with a view to modifying and improving the Expert Mechanism so that it can more effectively promote respect for the United Nations Declaration on the Rights of Indigenous Peoples, including by better assisting Member States to monitor, evaluate and improve the achievement of the ends of the Declaration.

3. In September 2016, the Human Rights Council adopted resolution 33/25, by which it amended the mandate of the Expert Mechanism. The latter's new mandate is to provide the Human Rights Council with expertise and advice on the rights of indigenous peoples as set out in the Declaration, and assist Member States, upon request, in achieving the ends of the Declaration through the promotion, protection and fulfilment of the rights of indigenous peoples. Specific new elements of the mandate include:

(a) Upon request, assisting Member States and/or indigenous peoples in identifying the need for and providing technical advice regarding the development of domestic legislation and policies relating to the rights of indigenous peoples;

(b) Providing Member States, upon their request, with assistance and advice for the implementation of recommendations made at the universal periodic review and by treaty bodies, special procedures or other relevant mechanisms;

(c) Upon the request of Member States, indigenous peoples and/or the private sector, engaging and assisting them by facilitating dialogue, when agreeable to all parties, in order to achieve the ends of the Declaration;

(d) Identifying, disseminating and promoting good practices and lessons learned regarding the efforts to achieve the ends of the Declaration, including through reports to the Human Rights Council;

(e) Seeking and receiving information from all relevant sources as necessary to fulfil its mandate;

(f) Expanding the membership from five to seven experts, in order to reflect the seven indigenous sociocultural regions.

4. According to paragraph 8 of resolution 33/25, the Expert Mechanism will determine its own methods of work. The methods of work provide guidance for the implementation of different elements of the new mandate. They will be revisited and revised periodically, as appropriate, in the light of the experience gained in the implementation of the new mandate.

II. Reports and studies for submission to the Human Rights Council

A. Rationale

5. In resolution 33/25, the Human Rights Council decided that the Expert Mechanism should:

(a) Prepare an annual study on the status of the rights of indigenous peoples worldwide in the achievement of the ends of the Declaration, focusing on one or more interrelated articles of the Declaration, as decided by the Expert Mechanism, taking into consideration the suggestions received from Member States and indigenous peoples, including challenges, good practices and recommendations (paragraph 2 (a));

(b) Identify, disseminate and promote good practices and lessons learned regarding the efforts to achieve the ends of the Declaration, including through reports to the Human Rights Council on this matter (paragraph 2 (b));

(c) Report at least once a year to the Human Rights Council on its work, and keep the Council fully informed of developments on the rights of indigenous peoples (paragraph 3).

B. Annual study on the status of the rights of indigenous peoples (thematic study)

6. The study on the status of the rights of indigenous peoples worldwide will fulfil the same purpose as the thematic studies conducted by the Expert Mechanism under its previous mandate. However, the Expert Mechanism will now be able to select the theme of its study itself, instead of receiving a mandate from the Human Rights Council to pursue a particular theme.

C. Selection of the theme

7. The members of the Expert Mechanism will select the theme of their annual study, which should focus "on one or more interrelated articles of the Declaration". This process should take into consideration suggestions received from Member States and indigenous peoples. The Expert Mechanism will receive suggestions formally from Member States and indigenous peoples during its annual session (under an agenda item on future work) and during its annual interactive dialogues with the Human Rights Council and the United Nations Permanent Forum on Indigenous Issues, but may also consult informally with all stakeholders, including through the Indigenous Peoples' Caucus. The Expert Mechanism will also consult with the Special Rapporteur on the rights of indigenous peoples and the Permanent Forum to ensure there is no overlap in studies being carried out by the three mechanisms. The Expert Mechanism will decide on the theme of its study at the latest by mid-June of each year, and will announce the theme during its annual session in July.

D. Report on good practices and lessons learned regarding the efforts to achieve the ends of the Declaration

8. The Expert Mechanism is mandated to identify, disseminate and promote good practices and lessons learned regarding the efforts to achieve the ends of the Declaration, including through reports to the Human Rights Council. While the annual study under paragraph 2 (a) of Council resolution 33/25 will take a thematic approach, the annual report under paragraph 2 (b) will address trends in the implementation of the Declaration. As set out in paragraph 9 of resolution 33/25, the Expert Mechanism may seek and receive information from all relevant sources.

E. Annual report to the Human Rights Council on the work of the Expert Mechanism

9. The report will be discussed and finalized at the annual session of the Expert Mechanism in July and presented to the Council annually during its September session. The Expert Mechanism will submit an annual report to the Human Rights Council, including a summary of its annual session and its intersessional activities, as well as proposals to the Council.

III. Country engagement

A. Rationale

10. Pursuant to paragraph 2 of Human Rights Council resolution 33/25, the Expert Mechanism should:

(a) Upon request, assist Member States and/or indigenous peoples in identifying the need for and providing technical advice regarding the development of domestic legislation and policies relating to the rights of indigenous peoples, as relevant, which may include establishing contacts with other United Nations agencies, funds and programmes;

(b) Provide Member States, upon their request, with assistance and advice for the implementation of recommendations made at the universal periodic review and by treaty bodies, special procedures or other relevant mechanisms;

(c) Upon the request of Member States, indigenous peoples and/or the private sector, engage and assist them by facilitating dialogue, where agreeable to all parties, in order to achieve the ends of the Declaration.

B. Core principles of country engagement

11. In its country engagement, the Expert Mechanism will uphold the highest standards of efficiency, competence and integrity, meaning in particular, though not exclusively, the observance of probity, impartiality, equity, honesty and good faith. The Expert Mechanism will neither seek nor accept instructions from any government, individual, governmental or non-governmental organization or pressure group whatsoever.

C. Purposes and modalities of country engagement by the Expert Mechanism

12. The purposes of country engagement by the Expert Mechanism may include: analysis of domestic legislation of policies and provision of independent advice and recommendations to the requester(s); facilitation of dialogue between requester(s) and other stakeholders; independent observation of and advice on the implementation of laws and policies to implement the Declaration; capacity-building for requester(s) and other stakeholders; awareness-raising.

13. The Expert Mechanism can work to bring stakeholders together to describe their activities and understanding and to share good practices and standards from around the world, particularly in relation to relevant rights enshrined in the Declaration. The dialogue may concern broad country-level engagement or local issues, depending on the specific situation. In some cases, working in a closed session may be particularly valuable. Dialogue with national human rights institutions is also a positive area on which the Expert Mechanism can focus.

14. The Expert Mechanism may also support States in the implementation of recommendations made by other human rights mechanisms in relation to the human rights of indigenous peoples and may provide a deeper analysis of these recommendations. This work may be research-based and/or policy-oriented.

15. Depending on the nature of the request, the modalities for country engagement may include, inter alia: country missions; training activities for State institutions, indigenous peoples' organizations, national human rights institutions and other stakeholders; video or audio calls; in-person meetings in Geneva or in other locations; email exchanges; formal communication through diplomatic channels.

D. Invitations and requests for country engagement

16. States or indigenous peoples may request the Expert Mechanism to engage at country level. Requests from States will be received through the Office of the United Nations High Commissioner for Human Rights (OHCHR) or the secretariat of the Expert Mechanism via diplomatic channels. Requests from indigenous peoples will be submitted to OHCHR or the secretariat of the Expert Mechanism, using a template made available on the Expert Mechanism website. Requests should provide at least the following information:

(a) Requesting institution/organization;

(b) Name of contact person(s);

(c) Description of the situation;

(d) Steps that have been taken to address the issue, including any domestic remedies;

(e) Expected action by and technical advice to be supplied by the Expert Mechanism;

(f) Whether State authorities or other stakeholders have been consulted about or informed of the request submitted to the Expert Mechanism;

(g) Proposed time frame;

(h) Any other relevant information.

17. The Expert Mechanism will acknowledge receipt of all requests, and may accept or decline requests as necessary or desired, taking into account existing capacity and resources as well as geographical balance. The Expert Mechanism will also give due attention to issues of current interest, bearing in mind the overall implementation of its mandate (including other elements, such as reports and studies), in order to prioritize requests. Requests that cannot be accepted immediately may be kept in a waiting list and addressed at a later stage.

18. The members of the Expert Mechanism will decide internally which specific members will be assigned to engage with each request, including potential country visits. The decision will be made in accordance with the expertise and portfolio of each expert. Regional expertise and knowledge of local languages should also be taken into account.

19. Terms of reference should be agreed for every country engagement activity in the light of the mandate of the Expert Mechanism. Modalities of engagement, timelines and the types of activity envisioned, as well as the expected final product, should be prepared by the Expert Mechanism in consultation with the requester(s) and other relevant stakeholders. The terms of reference should also include modalities for the disclosure of information, in agreement with the requester and other stakeholders.

20. Country engagement may include country missions by Expert Mechanism members at the request of States and/or indigenous peoples. The approval and cooperation of all parties should be sought. If the proposed country mission is triggered by a request from indigenous peoples, the Expert Mechanism should duly inform the Member State concerned to make sure that the Government agrees to the proposed visit.

21. Country missions may be undertaken for the purposes outlined in paragraph 1 above. Specific activities may include:

(a) Collection of good practices, lessons learned, challenges and testimonies;

(b) Increasing awareness of the Expert Mechanism mandate, studies, reports, advice and goals of the Declaration;

(c) Promoting understanding of the Declaration at the country level;

(d) Providing States and specific government officials with methods of implementing thematic advice issued by the Expert Mechanism;

(e) Dissemination of the Expert Mechanism's studies and advice and the best practices of stakeholders;

(f) Support with follow-up of universal periodic review and treaty body recommendations;

(g) Policy dialogue with stakeholders;

(h) Meetings and interviews with stakeholders;

(i) Facilitation and promotion of dialogue through information, interpretation, technical legal advice, providing knowledge, and similar means;

(j) Site visits;

(k) Training;

(l) Public lectures.

22. The actual agenda for the country mission is a matter to be determined by the Expert Mechanism, in consultation with the requester(s).

E. Communication

23. A media advisory will be issued before a country engagement mission and a press release afterwards, as well as press releases after intersessional meetings when deemed appropriate.

Annex II

List of participants

States Members of the United Nations represented by observers

Algeria, Australia, Azerbaijan, Bolivia (Plurinational State of), Brazil, Canada, Chile, China, Colombia, Denmark, Djibouti, Ecuador, Estonia, Finland, France, Germany, Greece, Guatemala, Honduras, Indonesia, Iran (Islamic Republic of), Iraq, Japan, Malaysia, Malta, Mauritius, Mexico, Morocco, New Zealand, Nepal, Nicaragua, Nigeria, Norway, Panama, Paraguay, Peru, Russian Federation, Saudi Arabia, South Africa, Spain, Sweden, Switzerland, Turkey, Ukraine, United States of America, Venezuela (Bolivarian Republic of), Viet Nam.

Non-Member States represented by observers

Holy See.

United Nations mandates, mechanisms, bodies, specialized agencies, funds and programmes represented by observers

Food and Agriculture Organization of the United Nations; International Labour Organization; United Nations Development Programme; United Nations Educational, Scientific and Cultural Organization; United Nations Institute for Training and Research; World Health Organization.

Intergovernmental organizations, regional organizations and mechanisms in the field of human rights represented by observers

African Commission on Human and Peoples' Rights; European Commission; European Union; Inter-American Commission on Human Rights; World Bank.

National human rights institutions represented by observers

National Human Rights Commission of Mexico; National Human Rights Commission of Nepal; New Zealand Human Rights Commission.

Academics and experts on indigenous issues, represented by observers of the following institutions

Centre for International Governance Innovation; Ethnographic Museum of Geneva; Geneva Academy of International Humanitarian Law and Human Rights; Geneva School of Economics and Management; Gottfried Wilhelm Leibniz Universität Hannover; Graduate Institute of International and Development Studies; Haute-École de Travail Social; Indigenous Law Centre, University of New South Wales; Kolonialism Osteko Ikasketa Zentroa; Leuphana Universität Lüneburg; Max Planck Institute for Social Anthropology; McGill University; Scales of Governance, the UN, States and Indigenous Peoples; Universidad de la Rioja; Universidad del Rosario; Universidad Federal de Bahia; Universidad Loyola Andalucía; Université Paris Diderot; University of British Columbia; University of Colorado Law School; University of Deusto; University of Essex; University of Geneva; University of Hamburg; University of Lucerne; University of Melbourne; University of Tübingen; University of Zurich.

Non-governmental organizations, indigenous nations, peoples, organizations and parliamentarians

Aboriginal Rights Coalition; Agencia Internacional de Prensa Indígena; American Association of Jurists; Asia Indigenous Peoples Pact; Asociación Americana de Juristas; Assemblée des Arméniens d'Arménie Occidentale; Assembly of Nova Scotia Mi'kmaq Chiefs; Association Aquaverde; Association Culturelle Ath Koudhia de Kabylie; Awa Associates; Bangsachampa; Centre de Documentation, de Recherche et d'Information des Peuples Autochtones; Centre Europe-Tiers Monde; Centre for International Governance Innovation; Centro de Estudios Multidisciplinarios Aymara; Comisión Jurídica para el Autodesarrollo de los Pueblos Originarios Andinos; Comité de solidarité avec les Indiens des Amériques; Community-Based Rehabilitation Global Network; Comunidad de Historia Mapuche; Confederación de Nacionalidades Amazonicas del Peru; Confederacy of Treaty Six First Nations; Congrès Mondial Amazigh; Congrès Populaire Coutumier Kanak; Consejo Regional Indigena del Tolima; Consultative Committee of Finno-Ugric Peoples; Continental Network of Indigenous Women of the Americas; Coopérative des artisans d'Alarçès; Council of Indigenous Peoples in Today's Vietnam; Crimean Tatar Resource Centre; CSIA-Nitassinan; Drumbeat Media; ECMIA North; EDFU Foundation; European Network of People of African Descent; Ewiiaapaayp Band of Kumeyaay Indians; Fédération des ONG de Kanaky Nouvelle Calédonie; FENAMAD; Forest Peoples Programme; Friends World Committee for Consultation; Fundación Paso a Paso A.C.; Geneva for Human Rights; Geneva International Centre for Justice; Greenpeace Russia; Groupe International de Travail pour les Peuples Autochtones; Hawai'i Institute for Human Rights; He Puna Marama Trust; Hutukara; ICCA Consortium; Indian Council of South America; Indian Law Resource Center; Indigenous Community "Reindeer Herder"; Indigenous Information Network; Indigenous Leadership Development Institute; Indigenous Peoples Network of Malaysia; Indigenous Peoples of Africa Co-ordinating Committee; International Indian Treaty Council; International Public Organisation Foundation for Research and Support of Indigenous Peoples of Crimea; Inuit Circumpolar Conference; Just Planet; Khmers Kampuchea — Krom Federation; Kirat Youth Society; Lelewal Foundation; Maari Ma Health Aboriginal Corporation; Maloca International; Maya Leaders Alliance of Southern Belize; Membertou Governance; Metareilá; Minority Rights Group; Mohawk Nation at Kahnawake; My Chosen Vessels; MyRight; Narok South Disability Network; National Congress of Australia's First Peoples; Native American Rights Fund; Negev Coexistence Forum for Civil Equality; Nepal Indigenous Disabled Association; NGO Pole of Cold — Oymyakon; OIDEL; Open Society Foundation; Open Society Justice Initiative; Organisation Tamaynut; Organización de Mujeres Indígenas por la Conservación, Investigación y Aprovechamiento de los Recursos Naturales; Pacific Disability Forum; Pueblo Indígena Bubi de la Isla de Bioko; Quaker United Nations Organization; Russian Association of Indigenous Peoples of the North, Siberia and the Far East; Saami Council; Sami Parliament in Sweden; Sami Parliament of Finland; Saniri Alifuru/Alifuru Council; Shimin Gaikou Centre (Citizen's Diplomatic Centre for the Rights of Indigenous Peoples); Society for Threatened Peoples; Solidarité avec les Peuples Autochtones des Amériques; Structural Analysis of Cultural Systems; Temoust; Ti Tlanizkel; Tin Hinane; WWF International; Youth Organisation of Mordovian People; Yuchi Language Project.